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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,210	11/02/2001	Phillip J. Heil	64,842-004	9142

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
3618	


3618

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

JK

# Office Action Summary

Application No. <b>10/000,210</b>	Applicant(s) <b>Heil et al.</b>	
Examiner <b>Vanaman</b>	Art Unit <b>3618</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Apr 9, 2003
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-18 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)                      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5)  Notice of Informal Patent Application (PTO-152)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4                      6)  Other:

**Election/Restriction**

1. Applicant's election without traverse of Invention I in Paper No. 6 is acknowledged. Claims 1-18 are directed to the elected invention, and applicant has canceled claim 19, the only other pending claim, with the response. As such, an office action on pending claims 1-18 follows.

**Specification**

2. The disclosure is objected to because of the following informalities: certain numeric references are not entirely clear: in paragraph 0021, "12++ millimeters", and in paragraph 0034, "20%++". It is not entirely clear what these values are intended to mean. In this case, the examiner assumes that the use of "++" suggests --greater than--. If this is the intended meaning, then applicant may desire to amend the specification such that the meaning is clear.

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 5 refers to the fiber as being polyester or fiberglass material, however the specification provides support only for glass fibers (paragraph 0021).

**Claim Rejections - 35 USC § 112**

4. Claims 7 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, line 2, and claim 18, line 2, it is not clear what is meant by "12++". For the purposes of this office action, the term is assumed to mean "12 or greater" .

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in

section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1, 2, and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Schrempf (US 6,412,799 B1, filed 6/2000). Schrempf teaches a running board for an automobile, comprising a polymeric (see col. 3, lines 63-67) plastic integrally molded unit, having a planar top platform (14) for extending along the side of a vehicle, and plural spaced apart J-shaped brackets (30/24) with upper ends for connection to the vehicle (through 40) and lower ends integral with the running board, the platform supported by reinforcing webbing (e.g., 64, 72) underneath, some of which are transverse to the length of the board and perpendicular to the upper surface (e.g., 64), and some of the transverse webs being extensions of the bracket portions (64 extending from 54, also 52), and longitudinal webs which are oriented at an angle (figure 8) to the upper surface.

#### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-7 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrempf. Schrempf teaches a running board for an automobile, comprising a polymeric (see col. 3, lines 63-67) plastic integrally molded unit, having a planar top platform (14) for extending along the side of a vehicle, and plural spaced apart J-shaped brackets (30/24) with upper ends for connection to the vehicle (through 40) and lower ends integral with the running board, the platform supported by reinforcing webbing (e.g., 64, 72) underneath, some of which are transverse to the length of the board and perpendicular to the upper surface (e.g., 64), and some of the transverse webs being extensions of the bracket portions (64 extending from 54, also 52), and longitudinal webs which are oriented at an angle (figure 8) to the upper surface, the brackets having a pair of channels (e.g., channels 26 between 58, 52), which are oriented to open toward

the vehicle portion to which they are attached (back face of 30). Schrempf fails to teach the plastic material as being specifically polypropylene, having long length, at least 12 mm., fiber reinforcements therein. The use of polypropylene is old and well known in the plastics arts, as a thermoplastic material capable of easy use in manufacturing environments, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the board from polypropylene for the purpose of facilitating ease of manufacture. In that long length glass fibers as additionally well known as a reinforcement, it would have been obvious to one of ordinary skill in the art at the time of the invention to use long-length glass fibers in the board material for the purpose of strengthening the board, thus assuring that it will be sufficiently strong to withstand everyday wear and tear associated with the operation of a vehicle. Note that Schrempf does envision the use of a reinforcing filler at col. 3, lines 63-67. Schrempf fails to teach the brackets as including a third channel element with outer channels being of greater width than an inner channel. In that no unexpected results have been indicated as accompanying this structure, and in that it is deemed to be within the skill of the ordinary practitioner to provide a greater number of a given taught element to enhance the function which that element provides, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide three channels rather than two to the brackets taught by Schrempf, by providing a further web element (dividing between the channels), for the purpose of further strengthening the brackets against bending. As regards the relative widths of the channels, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the relative widths of the channels taught by Schrempf as further modified, for the purpose of adjusting the stress distribution of the attachment brackets, or to provide a larger ground or bearing face against which the head of a fastener (through aperture 40) may rest.

### **Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pazik (US 5,022,679), Heil (US 6,513,821 filed 8/2000), Lanoue et al. (US 2003/0006576 A1), Kobayashi et al. (JP 59-32535), Yamana (JP 2-92786), and Nakao et al. (JP 5-85267) teach running board structures of pertinence.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)  
703-872-9327 (Official After Final communications)  
703-872-9325 (Customer Service)

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

F. Vanaman  
April 22, 2003



Handwritten signature of F. Vanaman, dated 4/22/03.